

Message Text

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TO AMEMBASSY ACCRA

C O N F I D E N T I A L STATE 273908

E.O. 11652: GDS

TAGS: SHUM, MASS, GH

SUBJECT: CLEARANCE OF DRAFT HUMAN RIGHTS OBSERVANCE
REPORT: GHANA

REF: STATE 231122

1. SECTION 502B OF THE FOREIGN ASSISTANCE ACT OF 1961 AS
AMENDED BY THE INTERNATIONAL SECURITY ASSISTANCE ACT
AND ARMS EXPORT CONTROL ACT OF 1976 STATES IN PARAGRAPH
502B(B) THAT THE "SECRETARY OF STATE SHALL TRANSMIT TO
THE CONGRESS, AS PART OF THE PRESENTATION MATERIALS FOR
SECURITY ASSISTANCE PROGRAMS PROPOSED FOR EACH YEAR, A
FULL AND COMPLETE REPORTWITH RESPECT TO PRACTICES
REGARDING THE OBSERVANCES OF AND RESPECT FOR INTERNATIONALLY
RECOGNIZED HUMAN RIGHTS IN EACH COUNTRY PROPOSED AS A
RECIPIENT OF SECURITY ASSISTANCE." PARAGRAPH (D) (2)
OF SECTION 502B AS AMENDED DEFINES "SECURITY ASSISTANCE"
TO INCLUDE SECURITY SUPPORTING ASSISTANCE, FMS, CERTAIN
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COMMERCIAL SALES, CREDITS AND OTHER PROGRAMS. THE FULL
TEXT OF THE AMENDED SECTION 502B WAS TRANSMITTED BY THE

REFTEL.

2. AS INDICATED IN THE REFTEL, THE DEPARTMENT HAS BEEN COLLECTING AND PREPARING INFORMATION ON THE HUMAN

RIGHTS SITUATIONS IN SECURITY ASSISTANCE RECIPIENT COUNTRIES IN ANTICIPATION OF SUBMITTING IT TO CONGRESS EARLY NEXT YEAR AS PART OF THE CONGRESSIONAL PRESENTATION DOCUMENT (CPD) ON SECURITY ASSISTANCE. HUMAN RIGHTS REPORTING FROM OVERSEAS POSTS, INFORMATION FROM NON-GOVERNMENTAL ORGANIZATIONS SUCH AS THE INTERNATIONAL COMMISSION OF JURISTS, AMNESTY INTERNATIONAL AND FREEDOM HOUSE, REPORTS BY INTERNATIONAL ORGANIZATIONS AND CONGRESSIONAL HEARINGS ON HUMAN RIGHTS HAVE BEEN COMPILED IN A DRAFT HUMAN RIGHTS OBSERVANCE REPORT ON EACH SECURITY ASSISTANCE RECIPIENT COUNTRY. THE DRAFT REPORT ON GHANA IS AT PARA 7.

3. THE DRAFT REPORT FOLLOWS A STANDARD FORMAT CALLING FOR A DESCRIPTION OF THE POLITICAL AND LEGAL SITUATION IN THE COUNTRY, A DESCRIPTIVE STATEMENT OF ACTUAL OBSERVANCE OF RIGHTS AND FREEDOMS IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WITH SPECIFIC ATTENTION TO MATTERS SPECIFIED IN THE INCLUSION CLAUSE OF PARAGRAPH (D)(1) OF SECTION 502B AS AMENDED, AND A REFLECTION OF OTHER HUMAN RIGHTS REPORTING. THE TEXT OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS WAS TRANSMITTED TO THE FIELD AS AN ENCLOSURE TO 75 STATE A-1045.

4. THE DRAFT REPORT HAS BEEN PARTIALLY CLEARED IN THE DEPARTMENT AND IS BEING USED INTERNALLY IN THE CURRENT REVIEW OF PROPOSED PROGRAMS FOR FY 1978. BEFORE FINAL CLEARANCE IN THE DEPARTMENT CAN BE OBTAINED FOR THE DRAFT REPORT'S INCLUSION IN THE CPD AS AN UNCLASSIFIED DOCUMENT (WHICH MAY BE PUBLICLY DISCLOSED IF CONGRESS SO CHOOSES), THE DEPARTMENT REQUESTS THE EMBASSY TO CAREFULLY REVIEW, CORRECT, UPDATE AND CLEAR THE DRAFT. (UNTIL THE DRAFT IS CLEARED FOR RELEASE, HOWEVER, IT REMAINS A WORKING DOCUMENT CLASSIFIED CONFIDENTIAL
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UNDER THE PROVISIONS OF EXECUTIVE ORDER 11652.)

5. IN CONDUCTING ITS REVIEW, THE EMBASSY SHOULD ENSURE THAT THE INFORMATION IN THE DRAFT CONSTITUTES A "FULL AND COMPLETE REPORT--WITH RESPECT TO PRACTICES REGARDING THE OBSERVANCE OF HUMAN RIGHTS" IN GHANA, AS REQUIRED IN SECTION 502B(B) AS AMENDED.

6. REQUESTED ACTION: THE EMBASSY IS REQUESTED TO REVIEW THE DRAFT TEXT AND PROVIDE COMMENTS, SUGGESTED

REVISIONS, UPDATING INFORMATION, ADDITIONAL INFORMATION IN SATISFACTION OF THE REQUIREMENTS OF SECTION 502B(B) AS AMENDED, AND CLEARANCE BY TELEGRAM TO REACH THE DEPARTMENT NO LATER THAN NOVEMBER 15.

7. BEGIN TEXT: GHANA: I. POLITICAL SITUATION.

GHANA HAS BEEN RULED SINCE JANUARY 13, 1972, BY A MILITARY GOVERNMENT. THE HIGHEST AUTHORITY WAS, UNTIL OCTOBER 1975, THE NATIONAL REDEMPTION COUNCIL (NRC). SINCE OCTOBER A SMALLER GROUP, THE SUPREME MILITARY COUNCIL (SMC) HAS BEEN SUPERIMPOSED ABOVE THE NRC. MEMBERSHIP IN THE SMC, WHICH SERVES AS THE NATION'S POLICY-MAKING BODY, IS DRAWN FROM THE NRC AND FROM ACTIVE DUTY COMMANDERS OF MILITARY FORCE COMPONENTS.

UPON ASSUMING POWER, THE MILITARY GOVERNMENT SUSPENDED THE 1969 CONSTITUTION AND BANNED POLITICAL PARTIES. THESE MEASURES REMAIN IN FORCE, ALTHOUGH EMERGENCY CONDITIONS OR MARTIAL LAW ARE NOT IN EFFECT. GOVERNMENT IS BY DECREE OF THE SMC AND OPERATES THROUGH ADMINISTRATIVE ACTIONS OF THE NRC AND OTHER IMPLEMENTING ORGANS.

WITH THE EXCEPTION OF POLITICAL PARTIES, FREEDOM OF ASSOCIATION IS PERMITTED IN GHANA. LABOR UNIONS, YOUTH AND UNIVERSITY GROUPS, CHURCH AND CIVIC ASSOCIATIONS, AND SOME INDEPENDENT NEWSPAPERS FLOURISH. WHILE IT SEEMS UNLIKELY THAT THE CURRENT MILITARY GOVERNMENT WILL SOON RESTORE CIVILIAN RULE OR HOLD ELECTIONS, THE HEAD OF STATE, GENERAL ACHEAMPONG, HAS STATED THAT CIVILIAN RULE WILL RETURN TO GHANA IN THE FUTURE.

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II. LEGAL SITUATION.

GHANA ENTERED INDEPENDENCE IN 1957 WITH A RELATIVELY STRONG ECONOMY, A CONSTITUTION, AND A TRADITION OF BRITISH COMMON LAW--ALL OF WHICH SUFFERED WEAKENING DURING THE REGIME OF KWAME NKRUMAH (1957-66). NKRUMAH WAS OUSTED IN A 1966 COUP AND A SUBSEQUENT ELECTED GOVERNMENT WAS OVERTHROWN BY MEMBERS OF THE CURRENT GOVERNMENT. GHANA HAS, AND HAS HAD ALMOST CONTINUOUSLY SINCE INDEPENDENCE, PROVISIONS FOR PREVENTIVE DETENTION. SINCE 1973 THE USE OF PREVENTIVE DETENTION HAS BEEN LIMITED, AND REASONABLY PROMPT JUDICIAL ACTION IS TAKEN. THE ACCUSED HAS THE RIGHT OF COUNSEL IN AN OPEN TRIAL WHEN CHARGES ARE BROUGHT. ACTIVE BAR ASSOCIATIONS, INDEPENDENT COURTS, AND THE RIGHT OF HABEAS CORPUS SERVE AS RESTRICTIONS ON ARBITRARY ARREST, ALTHOUGH THAT RIGHT CAN BE SUSPENDED UNDER THE PREVENTIVE DETENTION DECREE.

THE SUPREME COURT WAS ABOLISHED BY THE MILITARY GOVERN-

MENT BUT THE REMAINDER OF THE CIVIL JUDICIAL SYSTEM HAS CONTINUED TO FUNCTION. MILITARY TRIBUNALS FOR HEARING CASES FALLING WITHIN THE GENERAL CATEGORY OF "SUBVERSION" HAVE ALSO BEEN CREATED. TRIALS BY MILITARY TRIBUNAL, LIKE THOSE OF CIVIL COURTS, ARE USUALLY HELD PROMPTLY AND OPENLY.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS (UNIVERSAL DECLARATION OF HUMAN RIGHTS)

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE RIGHT OF LIFE, LIBERTY AND SECURITY OF PERSON SEEMS WELL-RESPECTED IN GHANA.

ARTICLE 5: TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ARE NOT COUNTENANCED IN GHANA. FEW CASES HAVE BEEN DOCUMENTED AND THE PERPETRATORS WERE DISCIPLINED.

ARTICLE 8: ACCESS TO REMEDIES FROM TRIBUNALS IS AVAILABLE FOR REDRESS OF VIOLATIONS OF RIGHTS, EXCEPT THOSE ABRIDGED BY LAW.

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ARTICLE 9: LEGAL PROVISION EXISTS FOR PREVENTIVE DETENTION. HOWEVER, THE PROVISION HAS BEEN INFREQUENTLY USED SINCE 1973. THIRTEEN PERSONS DETAINED AT THE END OF 1975 IN CONNECTION WITH A REPORTED COUP PLOT HAVE EITHER BEEN TRIED OR ARE CURRENTLY ON TRIAL. HABEAS CORPUS GENERALLY IS HONORED.

ARTICLE 10: FAIR AND PUBLIC HEARINGS BEFORE INDEPENDENT NATIONAL TRIBUNALS ARE AVAILABLE TO AN ACCUSED.

ARTICLE 11: FAIR TRIALS ARE THE RULE.

B. OTHER IMPORTANT FREEDOMS

WHILE POLITICAL PARTIES AND POLITICAL ACTIVITY ARE BANNED, FREEDOM FROM DISCRIMINATION, FREEDOM OF RELIGION, ASSEMBLY, EXPRESSION AND OTHER IMPORTANT LIBERTIES ARE OBSERVED.

IV. OTHER REPORTING

AMNESTY INTERNATIONAL'S 1975-76 REPORT RECOUNTS SEVERAL ARRESTS AND TRIALS DURING THE REPORTING PERIOD, AND MENTIONS ALLEGATIONS OF MISTREATMENT MADE BY SOME OF THE PERSONS DETAINED UNDER GHANA'S PREVENTIVE CUSTODY DECREE. THE REPORT ALSO CITES AS "POSITIVE MOVES" AN AMNESTY

OFFERED TO SUPPORTERS OF THE NATIONAL LIBERATION
MOVEMENT OF WESTERN TOGOLAND, AND THE GHANAIAI GOVERN-
MENT'S COMMUTATION, IN JANUARY 1976, TO LIFE IMPRISONMENT
THE DEATH SENTENCES OF THE FEW PERSONS AWAITING
EXECUTION.

THE DECEMBER 31, 1975 ARREST OF GHANAIAI CITIZEN KOFI
AWOONOR, WHO IS ALSO ON THE FACULTY OF SUNY-STONY
BROOK, AROUSED SOME INTEREST IN THE AMERICAN PRESS AND
CONCERN AMONG ACADEMIC AND LITERARY GROUPS. AWOONOR
WAS RECENTLY CONVICTED ON CHARGES OF HARBORING A FUGITIVE
AND HELPING A FUGITIVE TO ESCAPE. THE TRIAL WAS IN OPEN
COURT AND AWOONOR HAD LEGAL COUNSEL. HE WAS SENTENCED
TO CONCURRENT TWELVE MONTH TERMS, WITH THE TERMS
BEGINNING FROM THE DATE OF HIS ARREST. ON OCTOBER 22
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THE SMC COMMUTED HIS SENTENCES AND INVITED AWOONOR TO
RETURN TO HIS TEACHING POSITION AT THE UNIVERSITY OF
CAPE COAST.

FREEDOM HOUSE'S 1975 SURVEY CONSIDERS GHANA "NOT FREE".
END TEXT.

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